

DETAILED ACTION

This is a First Action following a Request for Considered Examination. Claims 5-7, 9, 11, 14, 18, 20 and 22-24 have been cancelled. Claims 1-4, 8, 10, 12, 13, 15-17, 19 and 21 are examined below.

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 26 March 2008 has been entered.

Claim Objections

2. Claim 21 is objected to because of the following informalities: line 2, "fame"; the examiner interpreted this as "frame". Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1-4, 8, 10, 12, 13, 15-17, 19 and 21 are rejected under 35 U.S.C. 102(a) as being anticipated by Schiffmann (U.S. Patent No. 7,204,059).

Claim 1: Schiffmann discloses a frame having a sill, a pair of spaced side jambs, and a head jamb (Fig. 3: generally), and a unitary plastic flashing member (Fig. 9) attached to the head jamb (see e.g. Fig. 10: 16, 94), the plastic member defines a flashing strip (Fig. 9: see "A" from attached Fig. 9, below) that would cover an upwardly facing top surface of the head jamb (portion 92 would achieve this) to inhibit moisture contact with the head jamb, a nailing fin (46) projecting upwardly from the flashing strip and away from the head jamb for attaching with the use of fasteners extending through the nail fin and a drip edge (52, 88) extending along an upper outside corner of the head jamb (portion 88 achieves this) to direct water from the

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flashing strip away from the head jamb, and a temporary construction cover (portion 92 is a removable cover) secured to the drip edge with a tear away connection (100) depending from the drip edge and sized to overlies the head jamb. The language "[to] protect said head jamb during construction and being torn away along said tear-away connection and discarded after construction to expose said head jamb" lines 11-14 is a statement of intended use of the claimed invention and must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. Further, these limitations are directed to method steps and only the final product, the flashing member in combination with the sill and jambs is provided patentable weight.

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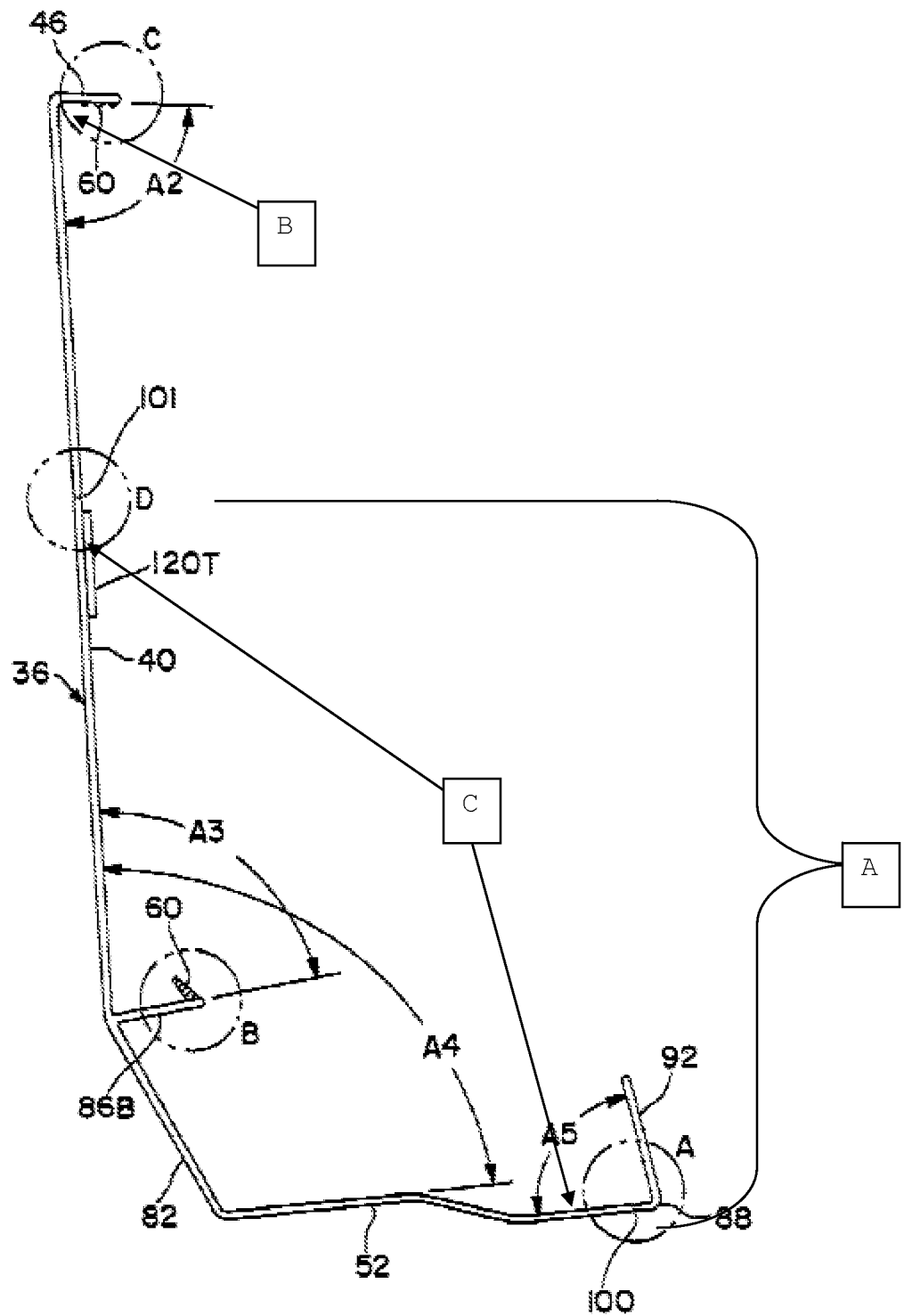


Figure 9 from Schiffmann

Claim 2: the nail fin is attached to the flashing strip with a flexible hinge (see "B" above).

Claim 3: the drip edge has a lip (the corner portion of 88 acts as a lip

Claim 4: the frame is a doorframe (as shown in Fig. 3.)

Claim 8: the jambs include brick mold (Col. 3, lines 40-45) and the flashing strip would cover an upwardly facing top surface of the brick mold (portion 92 covers the top portion.)

Claim 10: Schiffmann discloses a door assembly comprising a threshold, a pair of spaced apart vertical side jambs and a head jamb (see Fig. 3), brick mold extending along the vertical jambs and head jamb (Col. 3, lines 40-45) and a unitary plastic flashing member (Fig. 9) attached to the brick mold along the head jamb, the flashing member has both a flashing strip (92) overlying an upper top surface of the brick mold and a detachable construction cover (see "C" above, where the detachable portions are between weak points 100 and 101) that overlies an outside face of the mold and can be torn away.

Claim 12: the flashing strip has a drip edge (proximate 100) formed along the flashing strip.

Claim 13: the cover has a tear-away connection (100) along the drip edge.

Claim 15: a nailing fin (46) projecting outwardly from the strip and away from the door assembly. The phrase "for fastening said door...said nailing fin" lines 3 and 4 is a statement of intended use of the claimed invention and must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

Claim 16: the nailing fin is attached to the flashing strip with a flexible hinge (see "B" above)

Claim 17: the flashing members are on the side jambs and have the detachable cover as claimed (see Fig. 3.)

Claim 19: Schiffmann discloses a frame for a door (Fig. 3) having a sill, vertical side jambs, a head jamb, and brick molding (Col. 3, lines 40-45) surrounding the frame along the outside edge of the jamb, and a plastic flashing member (Fig. 9) extending along at least the head jamb (see, e.g. Fig. 10: 16), the member having a (92) flashing strip that overlies an upper top surface of the molding (see, e.g. Fig. 10: 94) and a detachable construction cover (52: detachable via portion 100) secured from the flashing strip and protects an otherwise exposed surface of the molding. The phrase "detached from said flashing strip and discarded after construction leaving said

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flashing strip attached" per lines 8 and 9 are limitations directed to method steps and only the final product, the plastic flashing member, is provided patentable weight.

Claim 21: the frame has a nailing fin (Fig. 9: 46) which can be used to attach the frame in a rough-in opening.

Response to Arguments

4. The following addresses applicant's remarks/arguments dated 26 March 2008:

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection as applicant amended the claims.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William V. Gilbert whose telephone number is 571.272.9055. The examiner can normally be reached on Monday - Friday, 08:00 to 17:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached on 571.272.6777. The fax phone number for the

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organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/W. V. G./

Examiner, Art Unit 3635

/Basil Katcheves/

Primary Examiner, Art Unit 3635